

**Before the
Federal Communications Commission
Washington, D. C. 20554**

In the Matter of the)	
)	
Application of Qwest Communications International,)	
Inc., for Authorization to Provide In-Region,)	WC Docket 02-148
InterLATA Services in the States of Colorado,)	
Idaho, Iowa, Nebraska and North Dakota)	

In the Matter of the)	
)	
Application of Qwest Communications International,)	
Inc., for Authorization to Provide In-Region,)	WC Docket 02-189
InterLATA Services in the States of Montana, Utah,)	
Washington and Wyoming)	

**Comments of the Wyoming Public Service Commission
(Issued September 4, 2002)**

The Wyoming Public Service Commission ("Wyoming PSC") hereby submits its comments in response to the Federal Communications Commission's ("Commission") August 29, 2002, Public Notice DA 02-2129, entitled "Comments Requested in Connection with Qwest's Pending Section 271 Applications." In the Public Notice, the Commission sought comments on certain *ex parte* filings by Qwest Communications International, Inc. ("Qwest") addressing its compliance [a] with the section 272(b)(2) requirement that its separate long distance affiliate maintain its books, records and accounts separate from those of the parent Bell Operating Company ("BOC") and [b] that this section 272 affiliate utilize Generally Accepted Accounting Principles ("GAAP") as required by the Commission. Qwest Corporation ("QC") is the BOC and Qwest Communications Corporation ("QCC"), established in January 2001, is QC's section 272 affiliate.

As the Wyoming PSC stated previously to the Commission, we have determined that Qwest has, in general, met the requirements for obtaining authority to provide in-region, interLATA services in Wyoming, including the separate affiliate requirements and conditions of section 272. We have stated that the Commission should approve Qwest's application. We issued our order on section 272 on June 19, 2002. It is our "Group 5 Order" which was furnished to the Commission as Attachment H to our initial comments filed on August 1, 2002. In this Order, we stated, at paragraphs 7 and 8, that:

"7. The Workshop Report further suggested, at p. 8, that:

"Qwest should provide by November 15, 2001 the results of a third party examination to verify that those changes are now producing an accurate, complete, and timely recording in its books and records of all appropriate accounting and billing information associated with transactions between the BOC and the 272 affiliate."

Qwest filed the required report, the Report of Independent Public Accountants (the KPMG Report), with the Commission and all parties on November 15, 2001, covering the period from April 1, 2001, to August 31, 2001. The KPMG Report concluded that, except for certain described instances, Qwest was in compliance in all material respects with the requirements of 47 U.S.C. §§ 272(b)(2), (b)(5) and (c)(2). Thereafter, Qwest filed the affidavits of Marie Schwartz and Judith Brunsting stating that it had corrected the instances of noncompliance identified in the KPMG Report and that Qwest had implemented internal controls to provide assurances that such instances do not occur again. The KPMG Report actually showed that the revenues flowing from Qwest to QCC were understated overall.

8. Our review of the record shows that there are several other factors and procedures in place which will help to ensure continued compliance with Section 272 by Qwest. They are FCC oversight and enforcement structures, the Cost Allocation Manual (CAM) filing requirements of the FCC, and the post-271 audit provisions previously established in this proceeding. Additionally, we retain oversight over the process at the Wyoming level and may act in the future to provide a rapid and informed cure for abuses with respect to the local exchange markets and competition in Wyoming. We are satisfied that the substantial evidence shows that QCC will be sufficiently separated from Qwest that it can operate on a competitively equal footing with other interexchange carriers in Wyoming and that this fact can be observed, audited and clearly understood going forward. Qwest's recommendation, in its October 5, 2001, Comments to the Commission on the Workshop Report, that the Commission adopt the findings and conclusions of that Report relating to Section 272 issues, is well founded."

During oral arguments held on November 20, 2001, on section 272 issues, we took additional testimony on the above-discussed KPMG Report that supported the contention that Qwest had implemented the necessary internal controls and procedures to assure compliance with the applicable requirements of section 272. Besides the factors discussed above which will assist in ensuring continued section 272 compliance by Qwest, the Biennial Audit provisions of section 272(d) should also provide additional section 272 compliance assurance to the Commission.

The Wyoming PSC further addressed this matter in our Order on Consideration of General Compliance issued July 3, 2002, (Attachment I to our initial August 1, 2002, Comments). There we stated the following concerning the requirements of section 272:

“The Separate Affiliate Requirement

32. When Qwest provides originating in-region interLATA long distance service, it must, under the Separate Affiliate Requirement found at 47 U.S.C. §§ 272(b) and (c), do so through the use of a business entity which is sufficiently structurally separate from Qwest Corporation that it will not have an unfair competitive advantage over other companies competing in the market. If the relationship of Qwest to the interLATA company is too close, the monopoly problem, which the federal Act seeks to address, could persist. In our order of June 19, 2002, concerning Group 5 workshop issues, we found that the Qwest’s designated subsidiary, Qwest Communications Corp., satisfied the structural, transactional and nondiscrimination safeguard tests and had passed the statutory test. With no further showings to the contrary and a later required report satisfying remaining questions, our ruling stands. Qwest has satisfied this requirement.”

The main requirements of section 272 are to [a] establish sufficient structural and transactional standards to ensure that Qwest does not discriminate in favor of QCC, [b] to discourage improper cost allocation and cross-subsidization between Qwest and QCC and [c] to facilitate the detection of improper cost allocation and cross-subsidization between Qwest and QCC. Qwest’s internal review of some of its past accounting decisions and the possible re-statement of beginning account balances essentially bear no relationship to, or impact the ability of Qwest to meet, the requirements and conditions of section 272.

Conclusion

It is the opinion of the Wyoming PSC that nothing has been presented in the above described *ex parte* filings that would alter or cause us to reconsider our original findings and recommendations concerning Qwest’s section 271 application for Wyoming. The Wyoming PSC continues to recommend that the Commission grant Qwest’s application for authority to provide in-region, interLATA services in Wyoming.

MADE and ENTERED at Cheyenne, Wyoming, on September 4, 2002.

PUBLIC SERVICE COMMISSION OF WYOMING

/s/ Steve Furtney
STEVE FURTNEY, Deputy Chair

/s/ Kristin Lee
KRISTIN LEE, Commissioner

(SEAL)
Attest:

/s/ Stephen G. Oxley
STEPHEN G. OXLEY, Secretary and Chief Counsel